

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

SEAN MICHAEL LYONS-PRICE,

Plaintiff,

v.

**CIVIL ACTION NO. 5:11-CV-145
(BAILEY)**

**JAMES SPENCER, and
STEVEN M. CROOK,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. By Local Rule, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Seibert filed his R&R on February 6, 2012 [Doc. 25]. In that filing, the magistrate judge recommended that this Court deny the defendants' Motion to Dismiss [Doc. 15] and deny and dismiss with prejudice plaintiff's State Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 [Doc. 1] [See Doc. 9 at 2-3].

Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

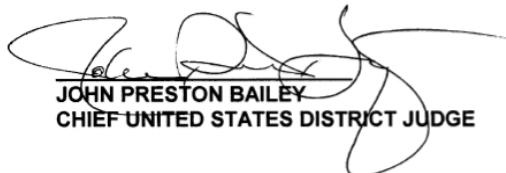
150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). Although the specific date of delivery is not listed on the signed return receipt, the docket reflects that service to the plaintiff's updated address was accepted before February 23, 2012 [Doc. 10]. To date, no objections have been filed.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [Doc. 25] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **DENIES** defendants' Motion to Dismiss Plaintiff's Complaint [Doc. 15] and **DENIES and DISMISSES with prejudice** the plaintiff's State Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 [Doc. 1]. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court. The Clerk is directed to enter a separate judgment in favor of the defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: April 3, 2012.



JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE